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FEDERAL-PROVINCIAL-TERRITORIAL CONFERENCE OF MINISTERS RESPONSIBLE FOR CULTURE AND HISTORICAL RESOURCES

Status of the Artist II

Federal

September 24-25, 1987
Charlottetown, P.E.I.

CHECK AGAINST DELIVERY

FEDERAL-PROVINCIAL-TERRITORIAL CONFERENCE OF MINISTERS RESPONSIBLE FOR CULTURE

STATUS OF THE ARTIST II

CHARLOTTETOWN, P.E.I.
SEPTEMBER 24-25, 1987

LADIES AND GENTLEMEN,

IN MAY OF THIS YEAR, I TABLED A BILL ON COPYRIGHT, AS YOU KNOW.

THE BILL DEALS WITH MANY AREAS OF MAJOR IMPORTANCE FOR IMPROVING THE STATUS OF THE ARTIST. IT INCLUDES PROVISIONS FOR THE PROTECTION OF CHOREOGRAPHIC WORKS, ENHANCED MORAL RIGHTS FOR CREATORS, ABOLITION OF THE TWO-CENT PER SONG COMPULSORY LICENCES FOR SOUND RECORDINGS, A NEW EXHIBITION RIGHT FOR ARTISTIC WORKS AND COLLECTIVE ADMINISTRATION OF COPYRIGHT.

THE BILL WAS GIVEN SECOND READING ON JUNE 26 AND IMMEDIATELY REFERRED TO A PARLIAMENTARY LEGISLATIVE COMMITTEE. THE COMMITTEE IS EXPECTED TO HOLD HEARINGS LATER THIS FALL.

OUR DISCUSSION TODAY WILL FOCUS ON AN ISSUE WITH POTENTIAL FOR CONFLICT. THE ISSUE IS ENHANCING THE STATUS OF THE ARTIST, WHILE RESPECTING THE INTEREST OF USERS AND CREATIVE MATERIALS.

COMME JE L'AI MENTIONNÉ PLUS TÔT, AUTANT IL EST FACILE DE JUSTIFIER LA PROTECTION AU REGARD DES OEUVRES DES CRÉATEURS, AUTANT LES BESOINS DES UTILISATEURS DE CES OEUVRES MÉRITENT D'ÊTRE PRIS EN CONSIDÉRATION. SINON, IL Y A RISQUE QUE L'UNE DES PARTIES SOIT FAVORISÉE AU DÉTRIMENT DE L'AUTRE, PUISQU'IL S'AGIT ICI DE DEUX INTÉRÊTS TOUT À FAIT INTERDÉPENDANTS. IL NOUS INCOMBE DONC, EN TANT QUE MINISTRES RESPONSABLES DES AFFAIRES CULTURELLES, DE RECONNAÎTRE QUE LES DEUX PARTIES N'Y GAGNERONT ENSEMBLE QUE SI ELLES SONT ENCOURAGÉES SUR UN PIED D'ÉGALITÉ.

LET US NOW CONSIDER THREE SITUATIONS TO ILLUSTRATE WHAT I MEAN.

TAKE THE SITUATION OF MUSEUMS AND ART GALLERIES AND THAT OF THE ARTIST. MUSEUMS AND GALLERIES NEED ARTISTS IN ORDER TO EXIST. ARTISTS NEED PLACES TO EXHIBIT THEIR WORKS. THUS, EACH IS DEPENDENT ON THE OTHER. YET EACH HAS ITS OWN INTERESTS.

GALLERIES WANT FREE UNLIMITED ACCESS TO DISPLAY ARTISTIC WORKS. ARTISTS WANT PAYMENT FOR THE EXHIBITION OF THEIR CREATIONS. THESE ARE FACTS WHICH MUST BE TAKEN INTO ACCOUNT WHEN STRIVING TO ENHANCE THE STATUS OF THE ARTIST. ONLY WHEN WE CONSIDER SUCH CIRCUMSTANCES ARE WE TRULY LIVING UP TO OUR COMMITMENT OF IMPROVING THE POSITION OF THE ARTIST.

THE NEW EXHIBITION RIGHT PROVIDED IN THE COPYRIGHT BILL BALANCES THE OPPOSING VALUES OF THE ARTIST AND THOSE OF MUSEUMS AND GALLERIES.

ANOTHER SITUATION WHERE A CONFLICT APPEARS IS IN THE AREA OF BROADCASTING. DOCUMENTARY RADIO AND TELEVISION PROGRAMS PLAY AN IMPORTANT ROLE IN THE EDUCATION PROCESS.

TEACHERS OFTEN TAPE PROGRAMS IN THE EVENINGS TO USE AS A BASIS FOR DISCUSSION THE NEXT DAY IN THE CLASSROOM. OBTAINING PERMISSION TO USE THESE PROGRAMS MAY MEAN DELAY. TEACHERS REQUIRE INSTANT ACCESS TO MAKE THE MOST OF THE MOMENT.

CREATORS OF THE PROGRAMS, ON THE OTHER HAND, LOSE CONTROL OF THESE PROGRAMS WHEN TEACHERS USE THEM. CREATORS DON'T KNOW WHEN THEIR PROGRAMS ARE BEING USED, OR BY WHOM, OR HOW OFTEN. ALSO, THEY ARE NOT RECEIVING COMPENSATION FOR THE USE OF THESE PROGRAMS -- A PAYMENT TO WHICH THEY ARE ENTITLED UNDER THE PRESENT COPYRIGHT LAW.

ANOTHER ILLUSTRATION OF THE CONFLICT ISSUE IS IN THE AREA OF PRINT MATERIALS. AND THE REPRODUCTION OF THESE MATERIALS BY PHOTOCOPYING, WHICH IS COMMONPLACE IN PUBLIC INSTITUTIONS, NAMELY SCHOOLS AND LIBRARIES. THESE INSTITUTIONS RELY ON THE NEW TECHNOLOGY TO DISSEMINATE INFORMATION AND MEET THE NEEDS OF THE STUDENTS AND THE PUBLIC.

HOWEVER, PHOTOCOPYING AFFECTS THE ECONOMIC INTERESTS OF WRITERS AND PUBLISHERS. INSTEAD OF PURCHASING BOOKS AND OTHER MATERIALS, LIBRARIES AND SCHOOLS PHOTOCOPY THEM -- USUALLY WITHOUT PERMISSION OR PAYMENT. THUS, WRITERS AND PUBLISHERS LOSE OUT ON COMPENSATION -- EARNINGS THEY ARE ENTITLED TO UNDER THE COPYRIGHT LAWS.

WE WANT A CULTURAL ATMOSPHERE WHICH ENCOURAGES CREATIVITY AND PROVIDES FOR EASY ACCESS TO CREATIVE WORKS. MY GOVERNMENT HAS INTRODUCED BILL C-60 TO MAKE THIS POSSIBLE. ONE OF THE PROVISIONS IN THE BILL ENCOURAGES COLLECTIVE SOCIETIES TO FORM AND OPERATE. AS I EXPLAINED IN AN EARLIER LETTER TO YOU, THE PROVINCES WILL PLAY A KEY ROLE IN THIS NEW LEGAL MILIEU.

THE CREATIVE COMMUNITY SEES COLLECTIVES AND BLANKET LICENCES AS THE ONLY PRACTICAL WAY OF BEING COMPENSATED FOR THE MANY USES OF THEIR PRINTED WORKS BY SCHOOLS AND LIBRARIES. COLLECTIVES WILL PERMIT SCHOOLS AND LIBRARIES QUICK AND EASY ACCESS TO WORKS. THEY PROVIDE A BALANCE BETWEEN CREATORS, ON THE ONE HAND, AND SCHOOLS AND LIBRARIES, ON THE OTHER HAND.

CREATORS AND USERS OF CREATIONS SEEM TO HAVE DIAMETRICALLY OPPOSING INTERESTS. WE MUST FIND SOLUTIONS WHICH WORK FOR BOTH SIDES. THE PROBLEM IS VERY MUCH A QUESTION OF MONEY.

ONE COLLECTIVE WILL SOON BE APPROACHING EVERY PROVINCIAL MINISTRY OF EDUCATION TO ASK FOR COMPENSATION FOR PHOTOCOPYING. THE EXPENSE FOR BLANKET LICENCES WILL REQUIRE FINANCIAL PLANNING. THUS, PROVINCIAL MINISTRIES OF EDUCATION MUST BE UP-TO-DATE ON REFORMS TAKING PLACE IN COPYRIGHT.

THE COLLECTIVE MAY LATER APPROACH LIBRARIES. TODAY LIBRARIES ARE VERY UNSURE OF THE LEGALITY OF THEIR ACTIVITIES. COLLECTIVES PROVIDE QUICK AND EASY ACCESS TO A LARGE VOLUME OF COPYRIGHT MATERIAL. THEY ALLOW FOR A REASONABLE NEGOCIATED AND REGULATED FEE FOR PHOTOCOPYING.

I TAKE PART IN THE MEASURES ENSURING THAT CREATORS ARE REWARDED FOR THEIR WORK, WHILE AT THE SAME TIME I AM AWARE THAT THE NECESSARY FUNDING IS OFTEN DIFFICULT TO FIND.

THAT IS WHY I HAVE SET UP A LEGAL REGIME IN THE COPYRIGHT BILL IN WHICH THE FINANCIAL BURDEN WILL BE SHARED. EACH USER WILL PAY THEIR FAIR SHARE. SCHOOLS WILL HAVE TO PAY FOR THEIR PHOTOCOPYING -- BUSINESSES FOR THEIR COPYING -- THE TERRITORIAL, PROVINCIAL AND FEDERAL GOVERNMENTS FOR THEIR COPYING.

NO ONE PARTY IS BEING ASKED TO BEAR THE BURDEN FOR OTHERS. THOSE WHO USE COPYRIGHT WORKS WILL HAVE TO PAY FOR USING THEM. I WILL HAVE TO PLAY BY THOSE RULES AND SO WILL YOU.

Le gouvernement du Québec fait oeuvre de pionnier au regard de la gestion collective, puisqu'il a déjà signé il y a quelques années des ententes avec l'Union des écrivains du Québec (UNEQ) et la Société pour l'avancement des droits en audio-visuel (SADA). En vertu de ces ententes, les maisons d'enseignement du Québec ont aisément accès à un vaste répertoire d'oeuvres littéraires et audio-visuelles moyennant un paiement total de 1,5 millions de dollars par année. Ce système semble connaître beaucoup de succès et mérite d'être souligné en tant que modèle possible dans d'autres contextes semblables. A cet égard, notre collègue l'honorable Lise Bacon aimerait peut-être nous faire part de l'expérience du Québec au cours des discussions que nous tiendrons dans quelques instants.

The federal government is made up of numerous government departments, agencies and crown corporations, many with internal libraries. All of these institutions engage in some level of photocopying.

As a result of Bill C-60, the use of copyright material by the federal government, like its provincial counterparts, will soon be licensed by a collective. To prepare for the upcoming negotiations between collectives and the federal government, I am undertaking a major study of photocopying in the government.

THIS STUDY WILL DETERMINE THE AMOUNT OF PHOTOCOPYING IN FEDERAL GOVERNMENT INSTITUTIONS -- AND THE AMOUNT OF THIS COPYING WHICH REQUIRES A COPYRIGHT PAYMENT TO A COLLECTIVE. THIS INFORMATION WILL PUT THE FEDERAL GOVERNMENT IN A POSITION TO NEGOTIATE WITH A COLLECTIVE ON THE BASIS OF UP-TO-THE-MINUTE STATISTICAL DATA.

AS THE MINISTER OF COMMUNICATIONS, I THINK IT IS RIGHT TO PAY FOR THE USE OF COPYRIGHT MATERIAL. BUT AS A USER, AND AS A RESPONSIBLE FINANCIAL MANAGER, I MUST KNOW WHAT I AM PAYING FOR AND WHAT PRICE IS FAIR. THE STUDY WILL ALLOW THE FEDERAL GOVERNMENT TO DETERMINE WHAT IT IS PAYING FOR.

THE AMOUNT PAID BY THE FEDERAL GOVERNMENT WILL BE A MATTER OF NEGOTIATION WITH THE COLLECTIVE. THE NEGOTIATION PROCESS WILL ALSO OCCUR AT THE PROVINCIAL AND TERRITORIAL GOVERNMENT LEVELS AND OTHERS WILL BENEFIT FROM THE DATA OUR OWN RESEARCH WILL HAVE REVEALED.

LET ME BE CLEAR ABOUT COSTS. WE ARE NOT TALKING ABOUT VAST SUMS OF MONEY. IN THE 15 WESTERN COUNTRIES WHERE SUCH COLLECTIVES HAVE BEEN ESTABLISHED, NO LIBRARIES HAVE CLOSED AND NO CHILDREN HAVE BEEN DENIED ACCESS TO LEARNING MATERIALS AS A RESULT OF THESE SYSTEMS. IN AUSTRALIA, FOR EXAMPLE, THE STANDARD FEE IS 2 CENTS A PAGE. THIS SEEMS ABOUT THE LEAST WE CAN DO TO MEET OUR OBLIGATIONS.